

VZCZCXYZ0009  
OO RUEHWEB

DE RUEHC #1740 2671956  
ZNR UUUUU ZZH  
O P 231951Z SEP 08  
FM SECSTATE WASHDC  
TO USMISSION USUN NEW YORK IMMEDIATE 0000  
INFO UN SECURITY COUNCIL COLLECTIVE PRIORITY

UNCLAS STATE 101740

SIPDIS

E.O. 12958: N/A  
TAGS: [UNSC](#) [PREL](#) [PHUM](#) [SO](#) [XA](#) [XW](#)  
SUBJECT: SOMALIA: TALKING POINTS AND NEGOTIATING  
INSTRUCTIONS ON FRENCH PIRACY RESOLUTION

¶1. USUN is instructed to draw from the talking points in paragraph 2 to affect the changes desired in the French draft resolution on Somalia piracy, in paragraph 3, for the UNSC experts meeting on September 23.

¶2. Being talking points:

-- We would like to thank the French for taking the initiative and proposing this resolution. The French have been clear leaders in the fight against piracy and armed robbery at sea, especially off the Somali coast.

-- The United States remains concerned about piracy and armed robbery at sea particularly in Somalia. We are especially worried about ensuring the delivery of life-saving humanitarian assistance to the Somali people. We are grateful to France for establishing a WFP escort program in November 2007. We are also grateful to the Governments of Denmark, the Netherlands, and Canada for their subsequent and steadfast support and participation in the WFP escort mission.

-- We note with concern that Canada's escort duty will end on September 27 and, to date, no other nation has offered to take over the program. Without an escort WFP deliveries to Somalia will not continue, which could potentially destabilize the entire region. The United States looks forward to working with the international community to find a long-term solution to providing adequate security to WFP shipping to Somalia. We believe the United Nations could play a role in securing this vital humanitarian aid. We would even be open to the UN assuming the administration of the WFP escort convoy missions as part of a greater UN Peacekeeping Operation to Somalia.

-- We think the French resolution will set the stage for greater international involvement in providing security to WFP shipping, as well as combating piracy in Somali territorial waters. We, however, would like to offer the following edits to the text:

-- In PP2 we feel the term "multiplication" is awkward and suggest an alternative perhaps, "proliferation". Also "at sea" should be added after "armed robbery". References to "armed robbery at sea" should be added throughout the document in conjunction with references to piracy. (Note to USUN: this is a low priority)

-- In PP3 add "and armed robbery at sea" after the words "acts of piracy" . (low priority)

-- In PP4 add "at sea" after "armed robbery". (low priority)

--In PP5 "p" in "WFP" should be capitalized. Also we propose adding the following text, "the establishment by the Combined Maritime Forces in the Gulf of Aden to establish a Maritime Security Patrol Area in international waters off the coast of Somalia to counter destabilizing activities in the region," immediately after "...by some Member States of the European Union off the coast of Somalia," The MSPA was a major

initiative of the Combined Maritime Forces to combat piracy in the region and should be acknowledged as such. (high priority)

-- We propose adding PP5bis that would read "Noting recent humanitarian reports that as many as three-and-a-half million Somalis will be dependent on humanitarian food aid by the end of the year, and that maritime contractors for the WFP will not deliver food aid to Somalia without naval warship escorts, and examining the Security Council's intention to consider a follow-on resolution in the coming days to ensure the long-term security of WFP deliveries to Somalia, including assuming the administration of the WFP escort convoy mission as part of a UN Peacekeeping Mission to Somalia," Interrupting piracy in the area is an important priority, but outside of the humanitarian vessels that are hijacked, an issue that does not affect the lives of most Somali citizens. We are supporting the French resolution today, as we did in leading efforts to pass 1816, to address the problem of piracy. However, we believe the Council should also act immediately to ensure the long-term security of WFP deliveries to Somalia. As part of this process, we look forward to working with you in the coming weeks to examine the feasibility of having the UN assume the administration of the WFP escort convoy missions as part of a greater UN PKO to Somalia. (HIGH PRIORITY-RED LINE)

-- In PP9 We feel we should use the same threat determination as in 1816. Therefore suggest deleting "the acts" and replacing with "the incidents". Also we suggest deleting "off the coast of Somalia" and inserting after "against vessels" the following: "in the territorial waters of Somalia and the high seas off the coast of Somalia." (medium priority)

-- In OP1 would like to add "reiterates that it" before "condemns". Also add "at sea" after "armed robbery" (low priority)

-- In OP2 add "and armed robbery at sea" after "against piracy" (low priority)

-- In OP3 add "and within the territorial waters of Somalia to prevent and repress acts of piracy and armed robbery at sea." We would also like to delete "to take all necessary measures" and also delete after the word "Convention" the following: "for the prevention and repression of acts of piracy." Further, we would like to add after "convention", "and as set forth in paragraph 7 of resolution 1816, including by seizing the proceeds of piracy, and seizing and disposing of boats, vessels, arms and other related equipment."

We feel that the "all necessary means/measures" language followed by "consistent with international law" is confusing. This language is generally used to override any international law constraints. Our edit avoids this confusion. We wish to add the seizure language because we feel it is important to clarify that these sorts of acts are permitted under international law. We understand some of our European colleagues may require this concrete language for additional legal assurances. (high priority)

-- In OP5 we would like to delete "the Somali population" and replace it with "affected populations in the region." It is more precise. (low priority)

-- We would also like to add a 5bis that reads, "Urges that States issue to ships entitled to fly their flag advice and guidance on precautionary measures to protect themselves from attack or actions to take if under attack or the threat of attack when sailing in waters off the coast of Somalia;" The Council should make it clear that while military efforts are indeed important, the shipping industry should shoulder some responsibility in prevention activities. (high priority)

-- We would also like to add a OP6bis that reads, "Urges all States, and in particular flag, port and coastal States,

States of the nationality of victims and perpetrators of piracy and armed robbery at sea, and other States with relevant jurisdiction under international law and national legislation, to cooperate in determining jurisdiction, and in the investigation and prosecution of persons responsible for acts of piracy and armed robbery at sea off the coast of Somalia, consistent with applicable international law including international human rights law, and to render assistance by, among other actions providing disposition and logistics assistance with respect to persons under their jurisdiction and control, such as victims and witnesses and persons detained as a result of operations conducted under resolution 1816 and this resolution;" This language is near identical to OP11 in 1816. The disposition of Persons Under Control is an extremely important issue. If the international community can resolve this issue, assuredly more nations would be willing to patrol Somali territorial waters with an intention to capturing pirates and armed robbers at sea. At present many may resist joining our efforts out of fear that any captured pirates would languish on their vessels for days, weeks, or months until someone agreed to detain and prosecute them. (high priority)

-- In OP7 add "at sea" after "armed robbery". (low priority)

#### SPECIFIC INSTRUCTIONS FOR THE FRENCH

-- USUN should approach the French before hand and outline our position. You should tell them that we will agree to support their resolution, with at least our redline edits, only in return for their support in the coming weeks for blue-hulling the WFP convoy mission and linking it to a UN PKO for Somalia.

13. Begin French resolution text with desired USG edits:

(1) Recalling its resolutions 1814 (2008) and 1816 (2008),

(2) Gravely concerned by the recent proliferation of acts of piracy and armed robbery at sea against vessels off the coast of Somalia, and by the serious threat it poses to the prompt, safe and effective delivery of humanitarian aid to Somalia, to international navigation and the safety of commercial maritime routes, as well as to fishing activities conducted in conformity with international law,

(3) Noting with concern also that increasingly violent acts of piracy and armed robbery at sea are carried out with heavier weaponry, in a larger area off the coast of Somalia, using long range assets such as mother ships, and demonstrating more sophisticated organization and methods of attack,

(4) Reaffirming that international law, as reflected in the United Nations Convention on the Law of the Sea of 10 December 1982 ("the Convention"), sets out the legal framework applicable to combating piracy and armed robbery at sea, as well as other ocean activities,

(5) Commending the contribution made by some States since November 2007 to protect the World Food Program (WFP) maritime convoys, and, in view of implementing resolutions 1814 and 1816, the establishment by the European Union of a coordination unit with the task of supporting the surveillance and protection activities carried out by some Member States of the European Union off the coast of Somali, the establishment by the Combined Maritime Forces in the Gulf of Aden to establish a Maritime Security Patrol Area in international waters off the coast of Somalia to counter destabilizing activities in the region, as well as the ongoing planning process towards a possible European Union naval operation,

(5bis) Noting recent humanitarian reports that as many as three-and-a-half million Somalis will be dependent on humanitarian food aid by the end of the year, and that maritime contractors for the WFP will not deliver food aid to

Somalia without naval warship escorts, and that the interruption of humanitarian assistance to Somalia is a threat to stability and the peace process; and expressing the Security Council's intention to consider a follow-on resolution in the coming days to ensure the long-term security of WFP deliveries to Somalia, including by assuming the administration of the WFP escort convoy mission as part of a UN Peacekeeping Operation to Somalia,

(6) Reaffirming its respect for the sovereignty, territorial integrity, political independence and unity of Somalia,

(7) Recalling the statement of its President dated 4 September 2008 (S/PRST/2008/33) in which it welcomed the signing of a peace and reconciliation agreement in Djibouti and commended the Special Representative of the Secretary-General for Somalia, Mr Ahmedou Ould-Abdallah for his ongoing efforts,

(8) Emphasizing that peace and stability, the strengthening of State institutions, economic and social development and respect for human rights and the rule of law will ultimately create the conditions for a full eradication of piracy and armed robbery at sea off the coast of Somalia,

(9) Determining that the incidents of piracy and armed robbery against vessels in the territorial waters of Somalia and the high seas off the coast of Somalia exacerbate the situation in Somalia, which continues to constitute a threat against international peace and security in the region,

(10) Acting under Chapter VII of the Charter of the United Nations,

¶1. Reiterates that it condemns and deplores all acts of piracy and armed robbery at sea against vessels off the coast of Somalia;

¶2. Calls upon all States interested in the safety of maritime activities to actively take part in the fight against piracy and armed robbery at sea against vessels off the coast of Somalia, in particular by deploying naval vessels and military aircraft;

¶3. Calls upon States whose naval vessels and military aircraft operate on the high seas and airspace off the coast of Somalia and within the territorial waters of Somalia to prevent and repress acts of piracy and armed robbery at sea, in conformity with international law as reflected in the Convention, and as set forth in paragraph 7 of resolution 1816, including by seizing the proceeds of piracy, and seizing and disposing of boats, vessels, arms and other related equipment ;

¶4. Urges all States that have the capacity to do so to cooperate with the Transitional Federal Government ("TFG") in the fight against piracy and armed robbery at sea in conformity with the provisions of resolution 1816;

¶5. Urges also States and regional organizations, in conformity with the provisions of Security Council resolution 1814, to continue to take action to protect the World Food Program maritime convoys, which is vital to bring humanitarian assistance to affected populations in the region

5bis. Urges that States issue to ships entitled to fly their flag advice and guidance on precautionary measures to protect themselves from attack or actions to take if under attack or the threat of attack when sailing in waters off the coast of Somalia;

¶6. Calls upon all States to coordinate their actions with other States acting pursuant to paragraphs 3, 4 and 5 above;

6bis. Urges all States, and in particular flag, port and coastal States, States of the nationality of victims and perpetrators of piracy and armed robbery at sea, and other States with relevant jurisdiction under international law and

national legislation, to cooperate in determining jurisdiction, and in the investigation and prosecution of persons responsible for acts of piracy and armed robbery at sea off the coast of Somalia, consistent with applicable international law including international human rights law, and to render assistance by, among other actions providing disposition and logistics assistance with respect to persons under their jurisdiction and control, such as victims and witnesses and persons detained as a result of operations conducted under resolution 1816 and this resolution;

¶7. Looks forward to the report of the Secretary-General requested in paragraph 13 of resolution 1816 and expresses its intention to review the situation with respect to piracy and armed robbery at sea against vessels off the coast of Somalia with a view, in particular, to renewing the authority provided in paragraph 7 of resolution 1816 for an additional period upon the request of the TFG;

¶8. Decides to remain seized of the matter.

End text.  
RICE